**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 5666 of 2001 (S/S)**
**Old No. 24950 of 1992**

Vinod Pandit s/o late Sri Mulri Dhar Shastri.
Lecturer in History,
Onkaranand Saraswati Degree College,
Deo Prayag, District Tehri Garhwal ….. Petitioner

**Versus**

1. State of Uttar Pradesh
2. Director,
   Higher Education (U.P.),
   Lucknow.
3. U.P. Higher Education Service
   Commission, Allahabad through
   its Secretary.
4. Committee of Management,
   Onkaranand Sarswati Degree College,
   Deo Prayag, District Tehri Garhwal
   Through its Manager …….. Respondents

…….

Sri S.N. Babulkar, Senior Advocate with Sri Anil Bisht, Advocate for the petitioner.
Sri J.P. Joshi, Addl. C.S.C. for respondents 1 to 3.

**JUDGMENT**

**Coram: Hon'ble Rajeev Gupta, C.J.**
**Hon'ble J.C.S. Rawat, J.**

**RAJEEV GUPTA, C. J. (Oral)**

Sri S.N. Babuldar, Senior Advocate with Sri Anil Bisht, Advocate for the petitioner.

Sri J.P. Joshi, Addl. Chief Standing Counsel for respondents 1 to 3. They are head.

2. Petitioner Vinod Pandit filed this writ petition in the year 1992 before the High Court Allahabad for the following reliefs:

> "(a) Issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 23.06.1992 passed by respondent no. 2 (Annexure '10' to the writ petition.)

(b) Issue a writ, rule, order or direction in the nature of mandamus commanding the respondents to regularise the service of the petitioner and permanently absorb him on the post on with he is working since 1984.

(c) Issue a suitable writ, rule, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case.

(d) Award costs of the petition to the petitioner."

3. The petitioner, in substance, is seeking quashing of the impugned order dated 23.06.1992 (Annexure 10) and also a direction for regularisation of his services.

4. The petitioner claims to have been appointed by respondent no. 4 as Lecture in History.

5. Respondents 1, 2 and 3, in their counter affidavit, have categorically stand in para 4 that the petitioner, for the reasons best know to him, left the job voluntarily on 26.10.1995.

6. Sri Babulkar, the learned Senior Counsel for the petitioner, on the other hand, submitted that in fact, the petitioner was forcibly removed form service by respondent no. 4- Committee of Management, Onkaranand Sarswati Degree College, Deo Prayag, District Tehri Garhwal.

7. Thus, it is apparent that the writ petition involves serious disputed question of fact as to whether the petitioner left his job voluntarily on 26.10.1995 as is alleged by the respondents in their counter affidavit or he was removed from the service forcibly by respondent no. 4 as is alleged by the learned counsel for the petitioner.

8. Such a seriously disputed of fact cannot be decided in a writ petition as the same may require leading of evidence by the parties which course is not permissible in writ petition.

9. Even if the amendments sought by the petitioner in the writ petition are permitted, the same would not change the nature of the above disputed question of fact.

10. As the petitioner, now, admittedly is not in service, there is no question of regularisation of his service.

11. The writ petition, therefore, is liable to be dismissed and is hereby dismissed.

12. Consequently, the interim order dated 20.07.1992 stands vacated automatically.

**(J.C.S. Rawat, J.)** **(Rajeev Gupta, C.J.)**
**28.08.2006** **28.08.2006**

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